

STATE OF MICHIGAN
IN THE SUPREME COURT

APPEAL FROM THE MICHIGAN COURT OF APPEALS

KEITH HUBBARD,

Plaintiff-Appellee

Supreme Court Case No.

v.

Court of Appeals Case No. 246165

NATIONAL RAILROAD PASSENGER
CORPORATION, a/k/a Amtrak, a District
of Columbia corporation,

Lower Court Case No. 01-115388-NO
Hon. Gershwin Drain

Defendant-Appellant

BRYAN J. WALDMAN
SINAS, DRAMIS, BRAKE, BOUGHTON
& McINTYRE, P.C.
3380 Pine Tree Road
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(517) 349-7500
Attorneys for Plaintiff-Appellee

GENE S. DAVIS (P12549)
HOLMAN, DAVIS & ASSOCIATES, PLLC
615 Griswold, 7th Floor
Detroit, MI 48226
(313) 962-8255
Attorneys for Defendant-Appellant

MOTION TO STAY COURT OF APPEALS'
ORDER REMANDING TO TRIAL COURT

Now comes Defendant, National Railroad Passenger Corporation, a/k/a Amtrak, by and through its counsel Holman Davis & Associates, PLLC, in support of its motion brought pursuant to MCR 7.313 and 7.302(C)(5)(b) states as follows:

1. On December 18, 2002, the Honorable Gershwin Drain of the Wayne County Circuit Court granted Defendant's Motion for Summary Disposition in the above-entitled cause.

FILED

OCT 18 2004

CORBIN R. DAVIS
CLERK
MICHIGAN SUPREME COURT

2. On September 7, 2004, the Court of Appeals, in a split decision, affirmed in part and reversed the trial court's Summary Disposition Judgment on one of plaintiff's FELA negligence claims and remanded it for trial on that issue.

3. On October 18, 2004, Defendant-Appellant's attorney hand delivered to the Michigan Supreme Court its Application For Leave To Appeal in this matter.

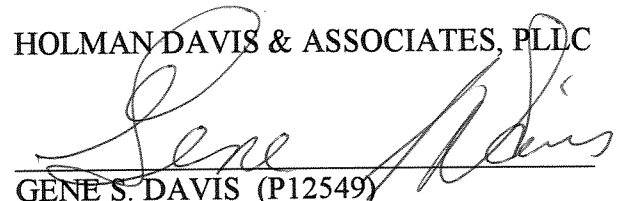
4. Defendant-Appellant will suffer material injustice if this matter is remanded and proceeds to trial while its Application For Leave To Appeal and any subsequent proceedings are decided by this Court.

5. Attached is Defendant-Appellant's attorney's Affidavit in support of the facts stated herein.

WHEREFORE, Defendant-Appellant requests that this Honorable Court stay the remand by the Court of Appeals to the Trial Court pending this Court's decision in this matter.

Respectfully submitted,

HOLMAN DAVIS & ASSOCIATES, PLLC



GENE S. DAVIS (P12549)

615 Griswold, 7th Floor
Detroit, Michigan 48226
(313) 962-8255

Attorneys for Defendant-Appellant

Dated: October 18, 2004


APPEAL FROM THE MICHIGAN COURT OF APPEALS

1. I am the attorney for defendant-appellant.
2. I make this affidavit from personal knowledge and if called as a witness, am competent to testify to the facts herein.

3. The facts set forth in defendant-appellant's motion for stay are true and accurate to the best of my knowledge.

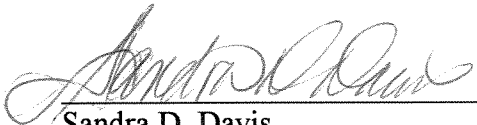
Further, Affiant sayeth not.

Dated: October 18, 2004



GENE S. DAVIS

Subscribed and sworn to before me on
October 18, 2004.



Sandra D. Davis
Notary Public, Wayne County, Michigan
My commission expires: 6/15/05

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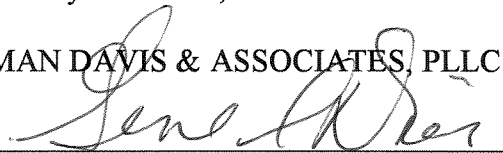
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**NOTICE OF HEARING
ON DEFENDANT-APPELLANT'S MOTION
TO STAY COURT OF APPEALS' ORDER
REMANDING TO TRIAL COURT**

A hearing on Defendant-Appellant's Motion To Stay Court of Appeals' Order
Remanding To Trial Court will be held on Tuesday, November 16, 2004.

Respectfully submitted,

HOLMAN DAVIS & ASSOCIATES, PLLC


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(313) 962-8255

Attorneys for Defendant-Appellant

Dated: October 18, 2004

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PROOF OF SERVICE

On October 18, 2004, I served via First Class Mail, a copy of Defendant-Appellant's Motion To Stay Court of Appeals' Order Remanding To Trial Court and Notice of Hearing on Defendant-Appellant's Motion To Stay Court of Appeals' Order Remanding To Trial Court upon:

Bryan J. Waldman
SINAS, DRAMIS, BRAKE, BROUGHTON & McINTYRE
3380 Pine Tree Road
Lansing, MI 48911-5207

I declare that the statements above are true to the best of my information, knowledge and belief.

Dated: October 18, 2004


Sandra D. Davis